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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/558,894 04/27/00 STATZ

R AD6731-US-NA

IM22/1029

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EXAMINER

BUTTNER, D

ART UNIT

PAPER NUMBER


1712

DATE MAILED: 10/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No. <b>09/558,894</b>	Applicant(s) <b>STATZ</b>	
Examiner <b>BUTTNER</b>	Art Unit <b>1712</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2,3 20) ☐ Other: \_\_\_\_\_

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“And ionomers thereof” is confusing in claim 1. If 90% of the acid groups are neutralized, then (b) must be an ionomer.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-5 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Sullivan '855 Patent.

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Sullivan discloses ionomer golf ball covers. The ionomers are based on E/acrylate/acid terpolymers with upto 100% neutralization (col. 2 line 36, table 4). Metal stearates can be included (col. 5 line 20).

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Sullivan '855 Patent in view of Sullivan '760.

Sullivan '855 suggests metal stearate additives but does not name  $C_6$ - $C_{12}$  salts. However, Sullivan does direct the reader (col. 5 line 19) to US 5306760 for other softening agents. That reference names salts of lauric acid (col. 6 line 35) as an alternative to metal stearates.

It would have been obvious to add a metal laurate to Sullivan's 855's 100% neutralized ionomer.

Claims 1-~~19~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over the Sullivan '855 Patent in view of Bush '578 or Reef '134.

Sullivan produces his ionomer/metal stearate blend by combining pre-neutralized ionomer and pre-neutralized stearic acid rather than post neutralizing a ethylene/acid + stearic acid blend.

Such a technique is known as shown by Rees (example 64) and Bush (example 1; table 1). The same final product would result whether preneutralized or post neutralized. It would have been obvious to prepare Sullivan's composition with a post neutralization.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner telephone number is (703) -308-2403. The examiner can normally be reached on weekdays from 10 am to 5 pm.

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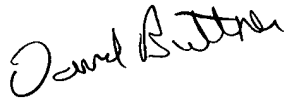
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) -308-2340. The fax phone number for the organization where this application or proceeding is assigned is (703) -872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) -308-0661.

Buttner/LR

October 26, 2001

**DAVID J. BUTTNER**  
**PRIMARY EXAMINER**

A handwritten signature in cursive script, reading "David Buttner", is written below the printed name and title.